

REMARKS

I. Introduction

Upon entry of the present amendment, claims 1-15, 21-31, 33-37, and 39-53 will be pending in this application. Claims 1, 2, and 47 have been amended to clarify certain aspects of the invention, support for which appears in the specification at least at pages 8, 10, 16, 35-37 and in the Figures (particularly Figures 1-2 and 5). Claims 29 and 30 have been amended to address the Examiner's drawing objections, and claim 32 has been cancelled without prejudice. Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

II. Drawings

The drawings are objected to under 37 CFR 1.83(a) as failing to show the gas directing means within back wall and bottom wall as recited in claims 29, 30, and 32. Without acquiescing to the Examiner's position, but in the interest of advancing the prosecution of this application, Applicants have amended claims 29 and 30, and cancelled claim 32. With respect to claim 29, Figure 3 shows a top view of the conveyor oven, and illustrates a back gas transfer system 393b, located in the back wall. *See* specification at pages 7, 11, and Fig. 3. With respect to claim 30, Figure 5 shows a bottom wall (304) and illustrates gas discharge plates 327a, 327b associated therewith. *See* specification at pages 7, 10, 18, 23, and Fig. 5. Applicants submit that these amendments address the Examiner's concerns, and respectfully request that this objection be withdrawn.

III. 35 U.S.C. § 103

A. Miller in view of Caridis

The Examiner has rejected claims 1-3, 5-6, 9-11, 26-33, and 41-42 under 35 U.S.C. § 103(a) as being unpatentable over Miller (U.S. Patent No. 6,713,741) in view of Caridis (U.S. Patent No. 5,934,178). The Examiner admits that the Miller patent fails to teach a number of the claimed elements (such as first and second cooking zones, conduit means for circulating gas, first and second gas directing means, and so forth), but submits that it teaches a moveable ingress door, a moveable egress door, and a conveyor. The Examiner submits that the Caridis patent teaches the remaining claimed elements, including “multiple cooking zones as the food product is conveyed through the oven.” *See* Office Action at page 6. The Examiner submits that it would have been obvious to combine Miller with Caridis for the purpose of providing Miller’s apparatus with a convective cooking means and multiple zones to impart different cooking conditions to the food product. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

The Examiner has failed to identify the feature of the Caridis patent that is characterized as corresponding to the claimed “first and second cooking zones” or how the conveyor belt conveys the food product from the first cooking zone to a second cooking zone. Nonetheless, without acquiescing to the combinability of these references or the Examiner’s rejections, in order to more fully define the invention, Applicants have clarified independent claims 1 and 2 (as well as claim 47, the other independent claim presented in this application) to specify that each cooking zone is a “separate and discrete cooking area within the cooking tunnel such that the food product moves forward through separate

cooking zones as it travels through the cooking tunnel.” This is described in the specification at pages 8, 10, and 35-37, which state that “[t]he term ‘cook zone’ refers to a separate and discrete cooking area with the oven cooking tunnel” (page 8); “[a]pppliance includes cook zones 380, 381, and 382 within cooking tunnel 394, FIG. 4. … Each cook zone is generally defined by an oven cavity 302, FIG. 5…” (page 10); “conveyor transport means 399 moves in a direction toward the cooking zones, (or zone) a distance such that food product 310 indexes, or moves forward to the first cook zone 380 … within oven tunnel 394” (pages 35-36); and once cooking in the first cook zone is complete, the conveyor begins “moving product 310 from first cook zone 380 to second cook zone 381” (page 37).

Figures 1 and 2 show separate and discrete cooking zones 380, 381, 382, and Figure 4 shows the division between the zones even more clearly. Specifically, as shown in the Figures, described in the application, and recited in the claims, each cook zone area has a housing defining a cooking chamber with means for supplying microwave energy to the cooking chamber, flow means, heating means, and gas directing means. The food product is positioned in the first cook zone, cooked, and then moved along via the conveyor to be transported to the second, separate cook zone. By contrast, there is no portion in either the Miller or Caridis patent that provides the claimed cooking zones, and the Examiner has failed to indicate where any such feature is located in the cited references.

At page 13 of the Office Action, rejecting claim 4, the Examiner submits that “Miller in view of Caridis discloses the oven of claim 1 wherein each cooking zone cooks the food product independently of the other cooking zones (44 and 46 are divided into sections each defining a separate cooking zone, Caridis).” *See* Office Action, page 13. It appears that the

Examiner is attempting to characterize the nozzle plate assembly 44 and the upper nozzle assembly 46 of Caridis (presumably the *upper and lower* chambers as shown in Figure 2, where one chamber cooks the top of the food product and the other chamber cooks the bottom of the food product) as the claimed “cooking zones.” This characterization fails for a number of reasons. First, the cooking zones as presently claimed are *separate and discrete cooking areas*. By contrast, the upper and lower chambers of the Caridis patent work collectively to cook the food product top and bottom at the same time during a single pass on the conveyor. They are not separate and discrete cooking areas.

Second, the claims further recite that the food product “moves forward through separate cooking zones as it travels through the cooking tunnel.” That is not the case with the Caridis upper and lower chambers. The food product moves through both chambers at once; it is not cooked in one chamber, then moved forward to the next chamber.

Third, claim 1 recites that each cooking zone has “a first gas directing means disposed *above* the food product” and “a second gas directing means disposed *above* the food product.” Claim 2 recites that each cooking zone has “a first gas directing means disposed *below* the food product” and “a second gas directing means disposed *below* the food product.” In other words, each cooking zone has two gas directing means, and both are either disposed above the food product (claim 1) or below the food product (claim 2). The Caridis patent does not teach or suggest a single cook zone having multiple gas directing means either above (claim 1) or below (claim 2) the food product.

Accordingly, Applicants respectfully submit that, even if combined as suggested, the cited references do not teach or suggest the presently-claimed invention.

Moreover, the remaining rejected claims depend from either of claims 1 or 2, and further incorporate these features. Without acquiescing to the Examiner's further detailed rejections, Applicants respectfully submit that for at least the above reasons, the suggested combination of Miller and Caridis also fails to teach these additional recited features.

B. Miller in view of Caridis further in view of additional references

The Examiner has also rejected the remaining claims as follows:

- claims 34-36 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Caridis and further in view of Wiker (U.S. Patent No. 6,655,373);
- claims 7, 21-25, and 43 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Caridis and further in view of Klepzig (U.S. Patent No. 3,548,152);
- claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Caridis and further in view of Levin (U.S. Patent No. 2,563,253);
- claims 12 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Caridis in view of Bingham (U.S. Patent No. 4,924,763);
- claims 14 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Caridis and further in view of Bruno (U.S. Patent No. 5,277,105);
- claim 37 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Caridis and further in view of Faraj (U.S. Patent No. 6,012,422);
- claim 39 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Caridis and further in view of Cook (U.S. Patent No. 6,114,664);
- claim 40 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Caridis and further in view of McKee (U.S. Patent No. 5,927,265);
- claims 44-46 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Caridis and further in view of Norris (U.S. Patent No. 6,250,296);
- claims 47-52 under 35 U.S.C. § 103(a) as being unpatentable over Miller (U.S. Patent No. 6,713,741) in view of Caridis (U.S. Patent No. 5,934,178); and

- claim 53 under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of Caridis and further in view of Leary (U.S. Patent No. 4,949,629).

Without acquiescing to the proper combinability of any of these references, Applicants submit that for at least the above discussed reasons related to the deficiencies of Miller and Caridis patents, even if they are combined as suggested or combined with the other cited references, the claimed invention would not result. Applicants thus believe that at least the above-discussed reasons support allowance of the currently pending claims.

CONCLUSION

For at least the above reasons, Applicants respectfully request allowance of the pending claims and issuance of a patent containing these claims in due course. If the Examiner believes there are any issues that can be resolved via a telephone conference, or if there are any informalities that can be corrected by an Examiner's amendment, he is invited to contact the undersigned.

Respectfully submitted,

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